



# City of Austin

Founded by Congress, Republic of Texas, 1839  
One Texas Center, 505 Barton Springs Road  
P.O. Box 1088, Austin, Texas 78767

June 10, 2019

Mr. Stuart Hersh  
6703 Woodhue Drive  
Austin, Texas 78745

Dear Mr. Hersh

At its May 29<sup>th</sup> Special Called meeting, The Building and Fire Board of Appeals held a public hearing regarding your appeal of the Building Official's decision to suspend the Certificate of Occupancy (CO) at Casa de Luz, located at 1701 Toomey Road. Board members present were outgoing Chairman Frank Haught, new elected Chairman Alan Schumann and board members Bobby Johns, Ben Abzug, Alicia Jones, James Wilsford, Timothy Arndt and Pieter Sybesma.

After hearing your testimony and the testimony of Beth Culver, Building Official, Tom Vocke, Fire Marshal and Matthew Noriega, Austin Code Compliance; Chairman Haught closed the public comment portion of the hearing. Chairman Haught asked the board for a motion in support or denial of the appeal. No motions, either in support or denial of your appeal was made, therefore, the Building Official's decision stands and the suspension upheld.

A person who is aggrieved by a decision of the board may appeal the decision to the city council under City Code § 2-1-121, as attached.

Sincerely,

Mr. Frank Haught  
Former Chairman, Building and Fire Code of Appeals

Xc: Building and Fire Board of Appeals board members  
Denise Lucas, Interim Director, Development Services Department  
Beth Culver, Building Official, Development Service Department  
Tom Vocke, Fire Marshal, Austin Fire Department  
Rick Holloway, Chief Building Inspector, Development Service Department  
Richard Anderson, Division Manager, Development Service Department.

§ 2-1-121 - BUILDING AND FIRE CODE BOARD OF APPEALS.

- (A) The Building and Fire Code Board of Appeals members should be qualified by experience and training to consider matters relating to building construction and fire prevention. Members may not be City employees.
- (B) The building official and the fire marshal shall serve as ex officio members of the board. The building official shall also serve as the board secretary.
- (C) The board shall:
  - (1) review any appeal filed in accordance with Title 25 (Land Development); and
  - (2) hear and decide appeals of orders, decisions, or determinations made by the building official relating to the application and interpretations of the Building Code and Fire Code.
- (D) The board may not waive a Code requirement.
- (E) The board shall render all decisions and findings in writing, file them with the building official, and send copies to the appellant.
- (F) A person who is aggrieved by a decision of the board may appeal the decision to the city council under this subsection.
  - (1) The appeal shall be made by filing a written notice of appeal with the city clerk. The notice of appeal shall contain:
    - (a) the name of the person filing the appeal;
    - (b) a background of the case, and a summary of the decision from which the appeal is taken;
    - (c) a statement containing facts which show, beyond a reasonable doubt, that the decision appealed from was incorrect because of its inconsistency or conflict with city ordinance or state law, or that a finding of fact by the board was clearly contrary to the evidence before the board; and
    - (d) the relief requested from the city council.
  - (2) Notice of appeal from a decision of the board shall be filed within 14 days after the date on which the decision appealed from was made.
  - (3) If the last day for filing the notice of appeal is a Saturday, Sunday, or City holiday, then the notice of appeal may be filed on the next day which is not a Saturday, Sunday, or City holiday.
  - (4) A person filing a notice of appeal under this section shall, on the same day of the filing, mail or deliver a copy of the notice of appeal to the board.
  - (5) The city council may, in the disposition of any appeal, waive any requirement of any ordinance in any case in which the council considers the application of the requirement to be unjust and unnecessary to achieve the purposes of the ordinance. The city council may take any other action it deems advisable in deciding any appeal under this section.

*Source: Ord. 20071129-011; Ord. 20080618-030; Ord. 20111215-053.*